

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6391 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? No.
 2. To be referred to the Reporter or not? No.

J

3. Whether Their Lordships wish to see the fair copy of the judgement? No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
5. Whether it is to be circulated to the Civil Judge? No.

ST.JOSEPH E.T.HIGH SCHOOL

Versus

STATE OF GUJART

Appearance:

M/S Trivedi & Gupta for Petitioner
Mr. M. R. Anand, G.P. for Respondent No.1 and 2.
Respondent no.3 served.

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 20/03/96

ORAL JUDGEMENT

Rule. Mr. M.R. Anand, learned G.P. waive service of notice of Rule for the respondents no.1 and 2.

2. By way of this Special Civil Application the petitioner St. Joseph E.T. High School, Valsad, has challenged the impugned action on the part of the respondent no.2 i.e. District Education Officer in not

granting approval to the Resolution with regard to the extension in service granted in respect to the Respondent no.3, Principle of the College Sr. Joseph E.T. High School, Valsad till reaching the age of 60 years erroneously relying on the provisions of Sec. 36(1) of the Gujarat Secondary Education Act.

3. Learned Advocate for the petitioner submits that the controversy involved in this Special Civil Application has been settled by the decision rendered by this Court in the judgment dated 22-1-1993 in Special Civil Application No.8379/90. Considering the various provisions, this Court held that minority institution to which certain provisions of the Act and the Regulations do not apply may grant extension to a teacher who has attained age of 58 years provided he is physically and mentally fit.

4. In view of the aforesaid, this Special Civil Application is allowed and the order dated 26-4-1995 at annexure 'A' is quashed and the respondent no.2 District Education Officer, Valsad is directed to reconsider the matter in light of the law laid down by this Court in the aforesaid judgment in the case of Haji Musa Ismail, President, the PraiaJ Education Society Vs. Dist. Education Officer, Bharuch and others, in Spl. Civil Application No.8329 of 1990, decided on 22-1-1993. The respondent no.2 District Education Officer, Valsad will take a decision in the matter within a period of two months from the date of receipt of writ. Rule is made absolute to the aforesaid extent, with no order as to cost. D.S. is permitted.

-0-0-0-0-0-